United States Constitution

ARTICLE III

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

SECTION 2. The judicial Power shall extend to all Cases in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; —to all Cases affecting Ambassadors, other public Ministers and Consuls; —to all Cases of admiralty and maritime Jurisdiction; —to Controversies to which the United States shall be a Party; —to Controversies between two or more States; —between a State and Citizens of another State; —between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury, and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

United States Code Annotated

TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE
PART III. COURT OFFICERS AND EMPLOYEES
CHAPTER 43. UNITED STATES MAGISTRATES

28 USCS § 636 (1995)

§ 636. Jurisdiction, powers, and temporary assignment

(a) Each United States magistrate serving under this chapter [28 USCS § 631 et seq.] shall have within the territorial jurisdiction prescribed by his appointment—

(1) all powers and duties conferred or imposed upon United States commissioners by law or by the Rules of Criminal Procedure [USCS FRCP] for the United States District Courts;

(2) the power to administer oaths and affirmations, issue orders pursuant to section 3142 of title 18 [18 USCS § 3142] concerning release or detention of persons pending trial, and take acknowledgments, affidavits, and depositions;

(3) the power to conduct trials under section 3401, title 18, United States Code [18 USCS § 3401], in conformity with and subject to the limitations of that section, and

(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.

(b)(1) Notwithstanding any provision of law to the contrary—

(A) a judge may designate a magistrate to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate's order is clearly erroneous or contrary to law.

(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

(C) the magistrate shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

(2) A judge may designate a magistrate to serve as a special master pursuant to the applicable provisions of this title [28 USCS §§ 1 et seq.] and the Federal Rules of Civil Procedure for the United States district courts. A judge may designate a magistrate to serve as a special master in any civil case, upon consent of the parties, without regard to the provisions of rule 53(b) of the Federal Rules of Civil Procedure for the United States district courts [USCS FRCP Rule 53(b)].

(3) A magistrate may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States.

(4) Each district court shall establish rules pursuant to which the magistrates shall discharge their duties.

(c) Notwithstanding any provision of law to the ccontrary—

(1) Upon the consent of the parties, a full--time United States magistrate or a part-time United Statees magistrate who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matteer and order the entry of judgment in the case, when speciall̈y designated to exercise such jurisdiction by the district couurt or courts he serves. Upon the consent of the parties, pursuant to their specific written request, any other part-time maagistrate may exercise such jurisdiction, if such magistrate meets the bar membership requirements set forth in section 6631(b)(1) [28 USCS § 631(b)(1)] and the chief judge of the ddistrict court certifies that a full-time magistrate is not reasoonably available in accordance with guidelines established byy the judicial council of the circuit. When there is more than ‹ one judge of a district court, designation under this paragraphh shall be by the concurrence of a majority of all the judges ‹ of such district court, and when there is no such concurreence, then by the chief judge.

(2) If a magistrate is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall, at the time the action is filed, notify the pearties of the availability of a magistrate to exercise such jurisdiction. The decision of the parties shall be communicated to › the clerk of court. Thereafter, either the district court judge ‹ or the magistrate may again advise the parties of the availaability of the magistrate, but in so doing, shall also advise the › parties that they are free to withhold consent without adverse substantive consequences. Rules of court for the refereence of civil matters to magistrates shall include proceduress to protect the voluntariness of the parties' consent.

(3) Upon entry of judgment in any case refeerred under paragraph (1) of this subsection, an aggrieved | party may appeal directly to the appropriate United Statees court of appeals from the judgment of the magistrate iin the same manner as an appeal from any other judgment oof a district court. In this circumstance, the consent of the paarties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of a judg-

ment of the district court in accordance with the Federal Rules of Civil Procedure [USCS FRCP]. Nothing in this paragraph shall be construed as a limitation of any party's right to seek review by the Supreme Court of the United States.

(4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

(5) Cases in the district courts under paragraph (4) of this subsection may be reviewed by the appropriate United States court of appeals upon petition for leave to appeal by a party stating specific objections to the judgment. Nothing in this paragraph shall be construed to be a limitation on any party's right to seek review by the Supreme Court of the United States.

(6) The court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate a reference of a civil matter to a magistrate under this subsection.

(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.

(d) The practice and procedure for the trial of cases before officers serving under this chapter [28 USCS §§ 631 et seq.], and for the taking and hearing of appeals to the district courts, shall conform to rules promulgated by the Supreme Court pursuant to section 2072 of this title.

(e) In a proceeding before a magistrate, any of the following acts or conduct shall constitute a contempt of the district court

for the district wherein the magistrate is sitting: (1) disobedience or resistance to any lawful order, process, or writ; (2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct the same; (3) failure to produce, after having been ordered to do so, any pertinent document; (4) refusal to appear after having been subpenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or (5) any other act or conduct which if committed before a judge of the district court would constitute contempt of such court. Upon the commission of any such act or conduct, the magistrate shall forthwith certify the facts to a judge of the district court and may serve or cause to be served upon any person whose behavior is brought into question under this section an order requiring such person to appear before a judge of that court upon a day certain to show cause why he should not be adjudged in contempt by reason of the facts so certified. A judge of the district court shall thereupon, in a summary manner, hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a judge of the court, or commit such person upon the conditions applicable in the case of defiance of the process of the district court or misconduct in the presence of a judge of that court.

(f) In an emergency and upon the concurrence of the chief judges of the districts involved, a United States magistrate may be temporarily assigned to perform any of the duties specified in subsection (a) or (b) of this section in a judicial district other than the judicial district for which he has been appointed. No magistrate shall perform any of such duties in a district to which he has been temporarily assigned until an order has been issued by the chief judge of such district specifying (1) the emergency by reason of which he has been transferred, (2) the duration of his assignment, and (3) the duties which he is authorized to perform.

A magistrate so assigned shall not be entitled to additional compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in accordance with section 635 [28 USCS § 635].

(g) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code [18 USCS § 4107]. A magistrate may be assigned by a judge of any United States district court to perform the verification required by section 4108 [18 USCS § 4108] and the appointment of counsel authorized by section 4109 of title 18, United States Code [18 USCS § 4109], and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.

(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in section 377 of this title or in subchapter III of chapter 83, and chapter 84, of title 5 [5 USCS §§ 8331 et seq., 8401 et seq.] which are applicable to such magistrate. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.

Federal Rules of Civil Procedure

RULE 72. Magistrate Judges; Pretrial Orders

(a) Nondispositive Matters. A magistrate judge to whom a pretrial matter not dispositive of a claim or defense of a party is referred to hear and determine shall promptly conduct such proceedings as are required and when appropriate enter into the record a written order setting forth the disposition of the matter. Within 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the magistrate judge's order to which objection was not timely made. The district judge to whom the case is assigned shall consider such objections and shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

(b) Dispositive Motions and Prisoner Petitions. A magistrate judge assigned without consent of the parties to hear a pretrial matter dispositive of a claim or defense of a party or a prisoner petition challenging the conditions of confinement shall promptly conduct such proceedings as are required. A record shall be made of all evidentiary proceedings before the magistrate judge, and a record may be made of such other proceedings as the magistrate judge deems necessary. The magistrate judge shall enter into the record a recommendation for disposition of the matter, including proposed findings of fact when appropriate. The clerk shall forthwith mail copies to all parties.

A party objecting to the recommended disposition of the matter shall promptly arrange for the transcription of the record, or portions of it as all parties may agree upon or the magistrate judge deems sufficient, unless the district judge otherwise directs. Within 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations. A

party may respond to another party's objections within 10 days after being served with a copy thereof. The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

HISTORY: (Added Aug. 1, 1983.)
(Amended Dec. 1, 1991; Dec. 1, 1993.)

RULE 73. Magistrate Judges; Trial by Consent and Appeal Options

(a) Powers; Procedure. When specially designated to exercise such jurisdiction by local rule or order of the district court and when all parties consent thereto, a magistrate judge may exercise the authority provided by Title 28, U.S.C. § 636(c) and may conduct any or all proceedings, including a jury or nonjury trial, in a civil case. A record of the proceedings shall be made in accordance with the requirements of Title 28, U.S.C. § 636(c)(7).

(b) Consent. When a magistrate judge has been designated to exercise civil trial jurisdiction, the clerk shall give written notice to the parties of their opportunity to consent to the exercise by a magistrate judge of civil jurisdiction over the case, as authorized by Title 28, U.S.C. § 636(c). If, within the period specified by local rule, the parties agree to a magistrate judge's exercise of such authority, they shall execute and file a joint form of consent or separate forms of consent setting forth such election.

A district judge, magistrate judge, or other court official may again advise the parties of the availability of the magistrate judge, but, in so doing, shall also advise the parties that they are free to

withhold consent without adverse substantive consequences. A district judge or magistrate judge shall not be informed of a party's response to the clerk's notification, unless all parties have consented to the referral of the matter to a magistrate judge.

The district judge, for good cause shown on the judge's own initiative, or under extraordinary circumstances shown by a party, may vacate a reference of a civil matter to a magistrate judge under this subdivision.

(c) Normal Appeal Route. In accordance with Title 28, U.S.C. § 636(c)(3), unless the parties otherwise agree to the optional appeal route provided for in subdivision (d) of this rule, appeal from a judgment entered upon direction of a magistrate judge in proceedings under this rule will lie to the court of appeals as it would from a judgment of the district court.

(d) Optional Appeal Route. In accordance with Title 28, U.S.C. § 636(c)(4), at the time of reference to a magistrate judge, the parties may consent to appeal on the record to a district judge of the court and thereafter, by petition only, to the court of appeals.

HISTORY: (Added Aug. 1, 1983; Aug. 1, 1987; Dec. 1, 1993.)

Local Rules
District Court for the Northern District of Illinois

RULE 1.72. Conduct of Civil Proceedings by Magistrate Judges with Consent of Parties * * * * *

E. Entry of Consent Judgments by Magistrate Judges

A magistrate judge is authorized to enter a final judgment for a sum certain to which all the parties have consented in writing or a judgment of dismissal to which all of the parties have stipulated in writing, provided that the parties indicate their consent to the entry of the judgment by the magistrate judge either in writing or in open court at the time of the entry of the judgment.

Local Rules
District Courts for the Southern & Eastern
District of New York

RULE 8. Consent of Jurisdiction Procedure

(a) When a civil action is filed with the clerk, the clerk shall give the filing party notice of the magistrate judge's consent jurisdiction in a form approved by the court, with sufficient copies to be served with the complaint on adversary parties. A copy of such notice shall be attached to any third-party complaint served by a defendant.

(b) [Repealed]

(c) When a completed form has been filed, the clerk shall draw by lot the name of a magistrate judge, unless a magistrate judge has previously acted in the matter, and forward the consent form with the name of such magistrate judge for final approval to the judge to whom the case is assigned. When the judge has approved the transfer and returned the consent form to the magistrate judge to whom the case is assigned, the clerk shall also indicate on the file the name of the magistrate judge to whom the case has been assigned.

(d) The magistrate judge may hear and determine any and all pretrial and post-trial matters which are filed by the parties, including case-dispositive motions in a case which has been assigned upon consent of the parties.

(e) Appeals, if made to the district court from a magistrate judge's judgment, shall be heard by the judge to whom the case was originally assigned.